IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE TWENTY SEVENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO : 1137 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 04/11/2004 in WP No. 19974 OF 1998 on the file of the High Court.)

Between:

Man Mohan Prasad Puri S/o. Late Narayandas Puri, r/o. Hyderabad.

..... APPELLANT

AND

1 The Government of India rep. by Principal Secretary
Ministry of Defence, Secretariat, New Delhi-110 011.
2 Government of India rep. by Addl.D.T.E.
General Personnel Service, Adjacent General Branch Army Head

Quarters, D.H.Q, P.O. New Delhi.
3 Government of Andhra Pradesh rep. by Zilla Sainik Welfare Officer
R.R.District Padmarao Nagar, Secunderabad-500 025.

.....RESPONDENTS

Counsel for the Appellant: MR.V.S.SOMAYAJULU

Counsel for the Respondent No.1: Mr. Ramakrishna Rao Siddanathi (SC for CG)

Counsel for the Respondent No.2: MR.A.RAJASHEKAR REDDY (ASST SOLICITOR GEN)

Counsel for the Respondent No.3: GP FOR HOME

The Court at the stage of admission made the following :

JUDGMENT: (Per the Hon'ble Smt Justice T.Meena Kumari)

The appellant call in, questions the legality of the order rendered by a learned single Judge of this court dated 04-11-2004 in W.P.No.19974 of 1998.

02. Factual position in a nut shell is as follows:

03. The petitioner joined in the Army (Madras Engineering Group) on 16-05-1960 with terms of engagement for a period of 7 years in colour service and 8 years in reserve service. After completion of 7 years colour service, when the petitioner had expressed his unwillingness to continue the same, he was transferred to reservist establishment with effect from 22.04.1968 as per the discharge certificate. On the representation made by the petitioner seeking for grant of reservist service pension, no action has been taken but ultimately the respondent sent a reply on 29.1.1997 informing that he was treated as deserter and removed from the reservist roll. It is further case of the petitioner that he has got prima facie case for grant of pension as he completed seven years of service. Hence, the writ petition.

04. Combating the allegations made in the writ petition, the respondents filed a detailed counter affidavit wherein, *inter alia*, it is stated that the petitioner was called upon to under go reservist biennial training, but he left the place deliberately avoiding the said notice and remained absent during the National emergency in 1971. On completion of three years as a deserter, he was dismissed from service and also removed from the reservist roll as per the rules. As per Regulation 113 (a) of Pension Regulations Part I, the petitioner is not eligible for any pension.

05. Heard the learned counsel on either side.

06. The learned single Judge having considered the rival contentions,

dismissed the writ petition.

07. On a close scrutiny of the material, it brooks that there is no dispute about the service rendered by the petitioner. The only question is as to whether the petitioner is entitled for the reservist pension or not. According to the respondents, when the petitioner was called upon to under go blennial training during the year 1970, he did not turn up and remained absent from the duties. Subsequently, as he was found not traceable continuously for a period of three years from the year 1970, he was declared as a deserter and dismissed from service with effect from 10.4.1974.

Now, this writ petition is filed by the petitioner in the year 1998 i.e., after a lapse of 28 years. Except the bald allegations that the writ petitioner does not know the factum of dismissal and the authorities did not intimate him as to the training etc., no convincing material is adduced before this court to show that there are *bona fides* on the part of the petitioner in claiming the pension in question. Apart from that this petition is filed at a belated stage.

Irrespective of the fact as to whether the writ petitioner is entitled for grant of the pension, the delay in filing the present writ petition leads to draw an adverse inference against the attitude of the writ petitioner in sleeping over the matter for a period of 28 years. Even otherwise, he is not eligible for any pensionary benefits as per Regulation 113 (a) of Pension Regulation for the Army Part I 1961 as contended by the respondents.

08. In this view of the afore stated discussion, we find no merit in the appeal, and the order impugned needs no interference.

09. In the result, the appeal fails and stands dismissed. No costs.

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T.MEENA KUMARI, J

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P.LAKSHMANA REDDY, J

27.06.2005

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To

1 The Principal Secretary , Government of India,
Ministry of Defence, Secretariat, New Delhi-110 011.
2 Government of India rep. by Addl.D.T.E.
General Personnel Service, Adjacent General Branch Army Head

Quarters, D.H.Q, P.O. New Delhi.
3 Government of Andhra Pradesh rep. by Zilla Sainik Welfare Officer
R.R.District Padmarao Nagar, Secunderabad-500 025.

4. Two CCs to GP for Home, High Court buildings, Hyderabad (OUT).

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